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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,661	10/23/2001	David Manera	98327C2.PUS	1931

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EXAMINER

FONTAINE, MONICA A

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 02/05/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/044,661	MANERA, DAVID
	<b>Examiner</b>	<b>Art Unit</b>
	Monica A Fontaine	1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 7 and 8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Priority***

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).

***Specification***

The abstract of the disclosure is objected to because it is directed to an apparatus, whereas the instant application is directed to a method. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: "A method for molding plastic caps".

***Claim Objections***

Claim 8 is objected to because of the following informalities: The examiner believes this claim to be missing the word "the" between "to...core" in line 5 of the claim. The examiner also believes this claim to be missing the phrase "the cap tabs and ribs," (as taken from the specification) in line 7 of the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not support the claimed process of displacing a core in line 5, and rotating the core in line 6. The sleeve 17 is disclosed in the original specification as moving axially and rotating.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the cavity of a female mold" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 7 also recites the limitation "the tab forming recesses" and "the blade recesses" in line 5 and line 8. There is insufficient antecedent basis for this limitation in the claim. Furthermore, Claim 7 recites the limitation "the core" in line 5. It is noted that a "core assembly" is previously identified, but not a "core." There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the cavity of a female mold" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claim 8 also recites the limitation "the blades" and "the blade recesses" in line 5 and line 7. There is insufficient antecedent basis for this limitation in the claim. Furthermore, Claim 8 recites the limitation "the core" in line 5. It is noted that a "core assembly" is previously identified, but not a "core." There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adamo (U.S. Patent 3,718,419), in view of Ekkert (U.S. Patent 5,368,469). Adamo shows the basic claimed process, including that it is known to mold a plastic cap having a top wall and a depending skirt with a plurality of circumferentially spaced tabs projecting from the skirt (Column 1, lines 13-16; Column 2, lines 6-8) following the steps consisting of positioning one end of a core assembly in the cavity of a female mold (Column 3, lines 11-16), charging the mold cavity with a plastic material (Column 4, lines 47-51), axially displacing the core relative to the blades having the tab forming recesses therein from the female mold cavity to a predetermined position below the mold cavity prior to rotating the core (Column 5, lines 7-12), rotating a core portion relative to blades to thereby rotate the molded cap relative to each of the blades thereby moving the tabs

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away from the blade recesses (Examiner's note: The bushing plate 28 of Adamo is herein interpreted as part of a core. Column 6, lines 11-15), and stripping the finished cap from the core (Column 5, lines 28-30). Adamo shows a movable core half, rather than applicant's movable cavity half. Ekkert shows that it is known to have an axially retractable cavity half (Column 8, lines 11-12). Ekkert and Adamo are combinable because they are concerned with a similar technical field, namely, that of molding a closure article. It would have been obvious to one of ordinary skill in the art at the time the invention was made to exchange the movable core half in Adamo's molding process for Ekkert's movable cavity half in order to provide the same relative motion but by manipulating different parts of machinery.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adamo, in view of Ekkert. Adamo shows the basic claimed process, including that it is known to mold a plastic cap having a top wall and a depending skirt with a plurality of circumferentially spaced tabs projecting from the skirt (Column 1, lines 13-16; Column 2, lines 6-8) following the steps consisting of positioning one end of a core assembly in the cavity of a female mold (Column 3, lines 11-16), charging the mold cavity with a plastic material (Column 4, lines 47-51), rotating a cap relative to the core and set of blades to thereby rotate the molded cap relative to each of the blades thereby moving the tabs away from the blade recesses (Column 6, lines 7-15), and stripping the finished cap from the core (Column 5, lines 28-30). Adamo shows axially displacing a core portion relative to set of blades having the tab forming recesses therein from the female mold cavity to a predetermined position below the mold cavity prior to rotating the cap (Column 5, lines 7-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to axially move the blades relative to a core portion in order to

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provide the same relative motion but by manipulating different parts of machinery. Adamo shows a movable core half, rather than applicant's movable cavity half. Ekkert shows that it is known to have an axially retractable cavity half (Column 8, lines 11-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to exchange the movable core half in Adamo's molding process for Ekkert's movable cavity half in order to provide the same relative motion but by manipulating different parts of machinery.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent is cited to further show the state of the art with regard to injection molding caps in general:

U.S. Patent 3,730,664 to Hultgreen

U.S. Patent 4,633,932 to Ferguson

U.S. Patent 4,496,302 to Brown

U.S. Patent 5,281,385 to Julian

U.S. Patent 5,565,223 to McCready et al.

U.S. Patent 6,079,973 to Manera et al.

U.S. Patent 6,409,498 to Manera et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica A Fontaine whose telephone number is 703-305-7239. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

maf  
January 24, 2003

*Jill L. Heitbrink*  
**JILL L. HEITBRINK**  
**PRIMARY EXAMINER**  
~~ART UNIT 107 / 1732~~  
*1/27/03*